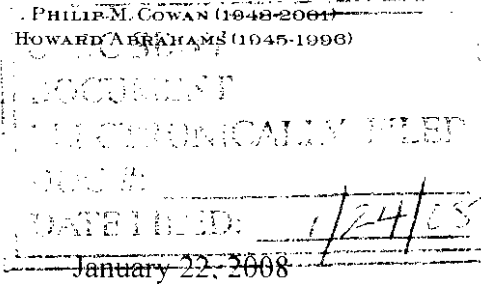


**COWAN, DeBAETS, ABRAHAM & SHEPPARD LLP**

ATTORNEYS AT LAW

FREDERICK P. BIMBLER  
TOBY M. J. BUTTERFIELD  
AL J. DANIEL, JR.\*  
TIMOTHY J. DeBAETS  
ROBERT I. FREEDMAN  
ELLIS B. LEVINE  
MITCHELL E. RADIN  
ROBERT L. SEIGEL  
J. STEPHEN SHEPPARD  
RALPH J. SUTTON\*  
KENNETH N. SWEZEY  
DAVID BRUCE WOLF  
NANCY E. WOLFF

ZEHRA J. ABDI  
LISA K. DIGERNES  
MATTHEW A. KAPLAN\*  
M. KILBURG REEDY  
MASON A. WEISZ



OF COUNSEL:  
ANNE C. BAKER  
JUDITH A. BRESLER  
JERROLD B. GOLD  
ALBERT GOTTESMAN  
ROGER E. KASS  
MICHAEL D. REMER  
ROBERT F. VAN LIEROP

CORRESPONDENT FIRM:  
DONALDSON & HART  
9220 SUNSET BLVD. STE. 224  
LOS ANGELES, CA 90069  
(310) 273-8394

\*ALSO ADMITTED IN CA & DC  
\*ALSO ADMITTED IN N.J.  
\*ALSO ADMITTED IN AR & DE

**VIA HAND DELIVERY**

Hon. Louis L. Stanton, U.S.D.J.  
United States District Court for the Southern District of New York  
500 Pearl Street, Room 2250  
New York, New York 10007

Re: Lyons Partnership, L.P., et al. v. Party Art Prods., Inc., et al.  
Docket No. 07-7121

Dear Judge Stanton:

Plaintiffs write to request a brief adjournment of oral argument on plaintiffs' motions for reconsideration and for a protective order, scheduled for the morning of Tuesday, January 29, 2008. Plaintiffs' request is based upon: 1) some defendants have yet to serve their oppositions; 2) each defendant appears to be filing a separate opposition; and 3) the Court should have plaintiffs' reply papers prior to oral argument. This is the first request for an adjournment.

Plaintiffs filed and served their motion via ECF on Friday, January 4, 2008, making defendants' oppositions due Friday, January 18 pursuant to the Federal and Local Rules. *See* L. Civ. R. 6.1(b) (oppositions due within ten (10) business days after service of moving papers).<sup>1</sup> The Save the Date, Party Art Productions, and Magic Agency Defendants assert their oppositions are due today. Even if oppositions filed today are timely, for plaintiffs to submit their reply papers prior to oral argument, they would only have four (4) business days to reply to four different oppositions instead of the five (5) business days permitted under Local Rule 6.1(b). Plaintiffs want the time permitted under the rules to prepare their reply papers, and ensure the Court has enough time to review those papers prior to oral argument.

We sought our adversaries' consent prior to making this request. While two of the four counsel stated they would not oppose our request, Mr. Pinnisi refuses to adjourn the hearing (*see* enclosed), even though he failed to attend the prior two conferences and it is not known whether he will even attend the oral argument. Counsel for Eric Silvey did not respond.

<sup>1</sup> Moreover, if the motions are considered discovery motions, all of defendants' oppositions would be hopelessly late. *See* Local Civ. R. 6.1(a) (oppositions to discovery motions due four (4) business days after service).

*This application for an adjournment is denied. The Court expects that Mr. Pinnisi will attend the January 29 argument.*  
*Louis L. Stanton*  
*1/23/08*

COWAN, DEBAETS, ABRAHAMS & SHEPPARD LLP

Hon. Louis L. Stanton, U.S.D.J.

January 22, 2008

Page 2

We thank the Court for its consideration.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Matthew A. Kaplan", is written over a circular stamp or seal.

Matthew A. Kaplan

Enclosure

cc: Counsel on Attached Service List (via e-mail) (w/encl.)  
Toby M.J. Butterfield, Esq.

COWAN, DeBAETS, ABRAHAMS & SHEPPARD LLP

Hon. Louis L. Stanton, U.S.D.J.

January 22, 2008

Page 3

**SERVICE LIST**

Brian J. Greenfield, Esq.

Greenfield, Pusateri & Ruhl

626 Rexcorp Plaza

Uniondale, NY 11516

516-522-2565 (telephone)

516-522-2566 (facsimile)

E-mail: [brian.greenfield@gprlaw.com](mailto:brian.greenfield@gprlaw.com)

*Attorneys for Defendant Eric Silvey d/b/a Eric Silvey Entertainment*

Mark J. Ingber, Esq.

Ingber & Gelber, LLP

181 Millburn Ave

Millburn, NJ 07041

973-921-0080 (telephone)

973-921-0021 (facsimile)

E-mail: [ingber.law@verizon.net](mailto:ingber.law@verizon.net)

*Attorneys for Party Art Defendants and Magic Agency Defendants*

Gary Adelman, Esq.

Robinson Brog Leinwand Greene Genovese & Gluck, P.C.

1345 Avenue of the Americas, 31st Floor

New York, New York 10150

[gpa@robinsonbrog.com](mailto:gpa@robinsonbrog.com)

212-603-0481 (telephone)

212-956-2164 (facsimile)

E-mail: [gpa@robinsonbrog.com](mailto:gpa@robinsonbrog.com)

*Attorneys for Defendants Party Poopers, Inc. and Marla Mase*

Michael D. Pinnisi, Esq.

Pinnisi & Anderson, LLP

11 North Tioga Street, Suite 200

Ithaca, NY 14850

607-257-8000 (telephone)

607-257-0990 (facsimile)

E-mail: [mpinnisi@pinnisianderson.com](mailto:mpinnisi@pinnisianderson.com)

*Attorneys for Save the Date Defendants*

**Matthew Kaplan**

---

**From:** Michael D. Pinnisi [mpinnisi@pinnisianderson.com]  
**Sent:** Saturday, January 19, 2008 9:00 AM  
**To:** 'Matthew Kaplan'  
**Cc:** 'Toby Butterfield'; jbockwoldt@cdas.com; 'Mark Ingber'; gpa@robinsonbrog.com; brian.greenfield@gprlaw.com  
**Subject:** RE: Lyons Partnership, LP et al v. Party Art Prods., Inc. et al - Motion for Reconsideration

Plaintiffs chose the timing and method of service of their motion. As a result of those voluntary elections, Defendants' responses are due January 22. Argument is set by Court Order on January 29. I am not aware of any Plaintiffs' right to reply. My clients do not consent to any deviation from the Court's Order or from application of the Rules as described above.

Michael D. Pinnisi  
Pinnisi & Anderson, LLP  
Bank of America Building  
111 N. Tioga St., Suite 200  
Ithaca, New York 14850  
Phone: (607) 257-8000  
Facsimile: (607) 257-0990  
www.pinnisianderson.com

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-----Original Message-----

**From:** Matthew Kaplan [mailto:mkaplan@cdas.com]  
**Sent:** Friday, January 18, 2008 4:14 PM  
**To:** 'Michael D. Pinnisi'; 'Mark Ingber'; gpa@robinsonbrog.com; brian.greenfield@gprlaw.com  
**Cc:** 'Toby Butterfield'; jbockwoldt@cdas.com  
**Subject:** RE: Lyons Partnership, LP et al v. Party Art Prods., Inc. et al - Motion for Reconsideration

Mr. Pinnisi:

Please explain why we have to agree that your responses will be timely if served on January 22, 2008, and how we waive our right to object if we do not respond exactly when and in the manner you want us to.

Plaintiffs are entitled to reserve their objections to timeliness and make them in their reply papers.

However, if defendants take the position that their papers will be timely filed on January 22, 2008, plaintiffs' reply will be due after January 29, 2008, the date on which Judge Stanton has scheduled oral argument. If defendants do not intend to file their opposition today, will defendants consent to a request to adjourn oral argument on the motion until after plaintiffs reply papers are filed? If so, plaintiffs would agree to waive any objection to the timeliness of the opposition.

Nothing herein waives or shall be construed to waive any argument, claim, or objection plaintiffs have, all of which are expressly reserved.

Regards,

Matthew A. Kaplan  
COWAN, DEBAETS, ABRAHAMS & SHEPPARD LLP  
41 Madison Avenue, 34th Floor | New York, NY 10010  
T: +1 212.974.7474 | F: +1 212.974.8474 mkaplan@cdas.com | www.cdas.com

-----Original Message-----

From: Michael D. Pinnisi [mailto:mpinnisi@pinnisianderson.com]  
Sent: Thursday, January 17, 2008 6:41 PM  
To: 'Matthew Kaplan'; 'Toby Butterfield'; jbockwoldt@cdas.com  
Cc: gary@gpa-law.com; 'Gary Adelman (bar)'; 'Brian Greenfield'; 'Mark Ingbar'  
Subject: RE: Lyons Partnership, LP et al v. Party Art Prods., Inc. et al - Motion for Reconsideration

Please advise promptly whether you agree that January 22, 2008 responses will be timely. If you do not agree, please provide the basis for your disagreement. Failure to respond will be deemed a waiver of any objection you might otherwise have had to lack of timeliness. I believe the issue is academic, as I believe the pertinent rules lead plainly to a January 22, 2008 response date, but I would prefer to have a complete record regarding Plaintiffs' position now that you have raised the issue.

Michael D. Pinnisi  
Pinnisi & Anderson, LLP  
Bank of America Building  
111 N. Tioga St., Suite 200  
Ithaca, New York 14850  
Phone: (607) 257-8000  
Facsimile: (607) 257-0990  
www.pinnisianderson.com

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-----Original Message-----

From: Gary Adelman [mailto:gary@gpa-law.com]  
Sent: Thursday, January 17, 2008 5:19 PM  
To: Michael Pinnisi; 'Matthew Kaplan'; Gary Adelman (bar); Brian Greenfield; Mark Ingbar  
Cc: 'Toby Butterfield'; jbockwoldt@cdas.com  
Subject: Re: Lyons Partnership, LP et al v. Party Art Prods., Inc. et al - Motion for Reconsideration

That is our understanding as well

January 22, 2008.

-----Original Message-----

From: "Michael D. Pinnisi" <mpinnisi@pinnisianderson.com>

Date: Thu, 17 Jan 2008 16:51:50

To: "Matthew Kaplan" <mkaplan@cdas.com>, "Gary Adelman"  
<gary@bartonesq.com>, <brian.greenfield@gprlaw.com>, "Mark Ingber"  
<ingber.law@verizon.net>

Cc: "Toby Butterfield" <tbutterfield@cdas.com>, <jbockwoldt@cdas.com>

Subject: RE: Lyons Partnership, LP et al v. Party Art Prods., Inc. et al - Motion for Reconsideration

I believe you have misapplied the timing provisions of the pertinent rules. By my calculation, Defendants' papers are not due until January 22, 2008. It is our intention to file on behalf of the "Save the Date" Defendants on that day.

Michael D. Pinnisi  
Pinnisi & Anderson, LLP  
Bank of America Building  
111 N. Tioga St., Suite 200  
Ithaca, New York 14850  
Phone: (607) 257-8000  
Facsimile: (607) 257-0990  
[www.pinnisianderson.com](http://www.pinnisianderson.com) <<http://www.pinnisianderson.com/>>

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-----  
From: Matthew Kaplan [mailto:mkaplan@cdas.com]  
Sent: Thursday, January 17, 2008 4:48 PM  
To: 'Gary Adelman'; 'Michael D. Pinnisi'; brian.greenfield@gprlaw.com;  
'Mark Ingber'  
Cc: 'Toby Butterfield'; jbockwoldt@cdas.com  
Subject: Lyons Partnership, LP et al v. Party Art Prods., Inc. et al -  
Motion for Reconsideration

Gentlemen:

For scheduling purposes, please confirm when tomorrow we can expect to receive defendants' opposition to plaintiffs' motion for reconsideration and for a protective order.

Regards,  
Matt

Matthew A. Kaplan

COWAN, DEBAETS, ABRAHAMS & SHEPPARD LLP

41 Madison Avenue, 34th Floor | New York, NY 10010

T: +1 212.974.7474 | F: +1 212.974.8474

<mailto:mkaplan@cdas.com> mkaplan@cdas.com | <<http://www.cdas.com/>>

[www.cdas.com](http://www.cdas.com)

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